Export controls regarding dual-use goods

1998/2110(COS) - 22/06/2000 - Implementing legislative act

PURPOSE : to set up a Community regime for the control of exports of dual-use items and technology. COMMUNITY MEASURE : Council Regulation 1334/2000/EC setting up a Community regime for the control of exports of dual-use items and technology. CONTENT : the Council adopted a Regulation setting up a Community regime for the control of exports of dual-use items and technology. It is recalled that the Council adopted in 1994 an export control regime for dual-use goods: a two-pillar system consisting of Council Regulation 3381/94/EC and Council Decision 94/942/CFSP. The two major elements of the regime were, on the one hand, a common product list and, on the other, the principle of mutual recognition of export licences. At the time of its adoption the regime was considered to be transitory in nature. The aim of this Regulation is to simplify and strengthen the regime with a view to facilitating legitimate trade and allowing resources to be concentrated on the control of sensitive exports and the combat of fraud. The major elements of change are as follows: - the common list of dual use items subject to controls is now contained in Annex I of the Regulation, and is no longer the subject of a CFSP decision. This list, drawn up in full conformity with the obligations and commitments that each Member State has accepted as a member of the relevant international non-proliferation regimes and export control arrangements, or by ratification of relevant international treaties, will be updated according to developments in such regimes, arrangements and international treaties. - creation of a general Community licence for certain exports : the Regulation consolidates the substantial amount of de facto convergence of Member States' licensing policies vis--vis Australia, Canada, Japan, New Zealand, Norway, Switzerland and the United States, as well as those Central and Eastern European countries applying for membership of the European Union with whom accession negotiations began on 31 March 1998 and which are also very advanced in terms of effective export control legislation and membership in the relevant international non-proliferation regimes: Czech Republic, Hungary and Poland. This de facto convergence is translated into a harmonised Community licence. This approach is intended to reduce the complexity of the present regime and covers a considerable volume of trade, estimated to account for more than 70% of exports of these goods from the Community. However, the most sensitive dual-use items are excluded from the benefit of this General License. - the legal basis: the European Court of Justice, in two rulings of 17 October 1995 (C-70/94 and C-83/94) clearly established exclusive Community competence for export controls concerning dual-use goods. The Court explicitly stated that neither the particular nature of the goods nor the fact that the control measures are taken in light of foreign policy or security consideration prevent Article 133 being applicable. However, the Court has also ruled that Article 133 does not preclude national measures regarding export controls, provided this is done on the basis of a delegation of powers by the EC and within the limitation posed by Regulation 2603/69/EEC. The Regulation therefore strikes a balance between the principle of Community competence and the legitimate concerns of MemberStates to remain in control of matters relating to their national security. - extension of the catch-all clause to all military end-use for exports to countries subject to an EU, OSCE or UN arms embargo: the Regulation provides for an extension of the catch-all clause to all military end-use, when the items in question are destined for a country which is subject to an EU, OSCE or UN arms embargo. - coverage of technology transfer by PC, fax and telephone : the Regulation closes the loophole in current legislation whereby these means of communication escape an authorisation requirement. - reinforced administrative cooperation. ENTRY INTO FORCE 28/09/2000.